

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. CR-15-4268 JB

ANGEL DELEON,

Defendant.

ORDER GRANTING MOTION FOR *LAFLER/FRYE* HEARING

THIS MATTER came before the Court on the United States' Motion for *Lafler/Frye* Hearing Before a Magistrate Judge, filed July 21, 2021. Doc. 3336. The motion is unopposed. *Id.* at 2. The Court held a Zoom hearing on the motion on August 19, 2021. AUSA Ryan Ellison appeared on behalf of the United States, and Sarah M. Gorman appeared on behalf of defendant, Angel DeLeon. Mr. DeLeon also was present by video.

Based on the representations of counsel and the testimony of Angel DeLeon, the Court finds the following facts:

On July 15, 2021, the United States e-mailed to Ms. Gorman a plea offer to resolve this case. The offer did not take the form of an actual written agreement but instead memorialized the material terms of the proposed plea agreement. On July 20, 2021, Ms. Gorman met with Mr. DeLeon in-person at the Cibola County Detention Center and spoke with him at length about the government's plea offer. Ms. Gorman is fluent in Spanish and spoke to Mr. DeLeon mostly in Spanish, although they occasionally spoke in English. Ms. Gorman showed Mr. DeLeon the government's written offer on her computer and went over the offer with him. The meeting lasted about two hours, and although they spoke about other things as well, they thoroughly

discussed the government's plea offer and the pros and cons of Mr. DeLeon accepting the offer. At the conclusion of the meeting, Mr. DeLeon told Ms. Gorman that he would not accept the government's plea offer. Late in the evening on July 20, 2021, after her meeting with Mr. DeLeon, Ms. Gorman sent an email to the United States informing it that Mr. DeLeon was rejecting the government's plea offer.

On July 27, 2021, Ms. Gorman again met with Mr. DeLeon in-person at the Cibola County Detention Center. This time Ms. Gorman brought with her a hard copy of the government's July 15, 2021 email letter in which the government outlined the terms of its proposed plea offer. Although Ms. Gorman already had told the United States that Mr. DeLeon had rejected the plea offer, the government had given Mr. DeLeon two weeks to make a decision, and Ms. Gorman wanted to make sure that Mr. DeLeon really did not want to accept the plea offer. Ms. Gorman again went over the government's plea offer with Mr. DeLeon in Spanish—showing him the email letter she had printed out—and discussed the offer with him at length. The meeting again lasted about two hours. Mr. DeLeon again told Ms. Gorman that he would not accept the government's plea offer. The government has not made any additional offers to Mr. DeLeon.

Upon questioning by the Court, Mr. DeLeon confirmed that Ms. Gorman twice conveyed the government's plea offer to him, that he and Ms. Gorman discussed the offer at length both times, and that he and Ms. Gorman discussed all the pros and cons of accepting the offer. Mr. DeLeon confirmed that after his first meeting with Ms. Gorman, he decided to reject the government's plea offer, and he did not change his mind after meeting with her a second time. Mr. DeLeon stated that he understood that in rejecting the government's plea offer, his case likely would result in a jury trial. He also stated that he understood that if he goes to trial and is

convicted, he cannot then change his mind and try to get the deal that the government offered him on July 15, 2021. After considering all the information and evidence provided at the hearing, the Court is convinced that Mr. DeLeon received the government's plea offer, understood its terms and effects, independently and voluntarily rejected it, and understood that rejecting the offer likely would result in a jury trial.

IT IS THEREFORE ORDERED that the United States' Motion for *Lafler/Frye* Hearing Before a Magistrate Judge is **GRANTED** to the extent that the Court held the hearing. The Court finds that the United States extended a formal plea offer to Mr. DeLeon on July 15, 2021, that offer was conveyed and explained to Mr. DeLeon in a timely manner, and, after consulting at length with his attorney, Mr. DeLeon knowingly and voluntarily rejected the plea offer.


LAURA FASHING
U. S. MAGISTRATE JUDGE